

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202 | No. 1:21-mi-55555-JPB

NOTICE OF SUPPLEMENTAL AUTHORITY

One important issue—perhaps *the* important issue—is whether the plaintiffs’ motions for a preliminary injunction should be denied under *Purcell*. Compare State-Opp. (Doc. 197) 8-12 (yes), and Intervenors’-Opp. (Doc. 194) 2-10 (yes), with NGP-Mot. (Doc. 112-1) 18-20 (no), and AME/NAACP-Mot. (Doc. 171-1) 29-33 (no). The plaintiffs argue no because, in *Wisconsin Legislature v. Wisconsin Elections Commission*, the Supreme Court “did not mention *Purcell*” even though that Court supposedly “ordered entirely new maps” for an election that was “over four months later.” AME/NAACP-Mot. 29-30 (citing 142 S. Ct. 1245, 1248 (2022)). But this argument is difficult to square with the stay that the Supreme Court just entered in *Ardoin v. Robinson*, No. 21A814 (June 28, 2022) (attached as Ex. A.).

The plaintiffs’ arguments here were also made in *Ardoin* (by many of the same lawyers). There, the district court preliminarily enjoined Louisiana’s congressional map on June 6. The district court rejected *Purcell* because the November election was “more than 150 days” away, compared to *Wisconsin Legislature* where the next election was “139 days away.” 2022 WL 2012389, at *61 (M.D. La. June 6). The Fifth Circuit agreed, stating that Louisiana could “cite no case applying *Purcell* to stay an injunction this far from an election.” 2022 WL 2104123, at *15 (5th Cir. June 12, 2022). At the Supreme Court, the

plaintiffs again cited *Wisconsin Legislature* to explain why their preliminary injunction “issued 155 days before” the November election did not implicate *Purcell*. *Galmon-Opp.* 36, bit.ly/3y2DVHg; accord *Robinson-Opp.* 2, bit.ly/3I2Ppiv (insisting that *Purcell* “is foreclosed by this Court’s recent decision in *Wisconsin Legislature*”).

The Supreme Court apparently disagreed. It stayed the district court’s preliminary injunction, rejecting the views of the plaintiffs, the district court, the Fifth Circuit, and three dissenting Justices. Though its order is unreasoned, the Court appeared to think the case should be treated the same as *Merrill v. Milligan*. See Ex. A. As Intervenors have explained, *Milligan* invoked *Purcell* where voting in the next election started in four months. The same logic applies here, where voting in the next election will start even sooner. See Intervenors’-Opp. 4-5.

The plaintiffs’ motions for a preliminary injunction should be denied.

Respectfully submitted,

Dated: June 29, 2022

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CERTIFICATE OF COMPLIANCE

This document complies with Local Rule 5.1(B) because it uses 13-point Century Schoolbook.

/s/ Cameron T. Norris

CERTIFICATE OF SERVICE

On June 29, 2022, I e-filed this document on ECF, which will email everyone requiring service.

/s/ Cameron T. Norris

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Exhibit A

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(ORDER LIST: 597 U.S.)

TUESDAY, JUNE 28, 2022

CERTIORARI GRANTED

21-1596 ARDOIN, LA SEC. OF STATE, ET AL. V. ROBINSON, PRESS, ET AL.
(21A814)

The application for stay presented to Justice Alito and by him referred to the Court is granted. The district court's June 6, 2022 preliminary injunctions in No. 3:22-CV-211 and No. 3:22-CV-214 are stayed. In addition, the application for stay is treated as a petition for a writ of certiorari before judgment, and the petition is granted. The case is held in abeyance pending this Court's decision in *Merrill, AL Sec. of State, et al. v. Milligan, Evan, et al.* (No. 21-1086 and No. 21-1087) or further order of the Court. The stay shall terminate upon the sending down of the judgment of this Court.

Justice Breyer, Justice Sotomayor, and Justice Kagan would deny the application for stay and dissent from the treatment of the application as a petition for a writ of certiorari before judgment and the granting of certiorari before judgment.